

### **REMARKS**

Claims 47-50, 72, 73, and 93-95 were pending. No claims were previously withdrawn from consideration, and claims 1-46, 51-71, and 74-92 had been previously cancelled. By this response, claims 47, 73, and 93 have been amended, no claims have been cancelled, and no claims have been added. Support for these amendments, and for any new claims, may be found throughout the specification, including the claims as originally filed. Cancellation or amendment of any claim is not to be considered a dedication to the public of any subject matter.

Thus, claims 47-50, 72, 73, and 93-95 are currently under consideration.

### **INFORMATION DISCLOSURE STATEMENTS**

References submitted in Information Disclosure Statements dated 4/6/2007 and 6/29/2007 remain unacknowledged. Applicants respectfully requested that these Information Disclosure Statements be considered and the initialed PTO Forms 1449 be returned with the next Action.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

#### **Claims 47-50, 72-73 and 93-95**

Claims 47-50, 72, 73 and 93-95 currently stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0015109 to Lichtenstein ("Lichenstein").

The Applicants respectfully disagree.

The Applicants' pending claims are all limited to method of treating a patient with congestive heart failure using inflatable partitioning elements. The Examiner alleges that the methods of using the expandable devices of Lichtenstein (US 2005/0015109) anticipate these claims. According to the Office Action of August 21, 2009, The Examiner considers the

“inflatable” property of the claimed “inflatable partitioning element” to be “just a name”, and does not give this patentable weight. Applicants have amended the claims to clarify that the step of “inflating the inflatable partitioning element” requires inflating an interior of the inflatable partitioning element with an inflation fluid.

Lichtenstein does not show or even suggest a partitioning element that is capable of being inflated by inflating an interior of the inflatable partitioning element or device, as recited by the claims.


Since Lichtenstein does not show all of the features recited in the pending claims, Lichtenstein cannot anticipate these claims. The Applicants respectfully request withdrawal of the 35 U.S.C. 102(e) rejection of claims 47-50, 72-73 and 93-95 over Lichtenstein, and allowance of all of the currently pending claims.

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### **CONCLUSION**

Applicants respectfully request that the Examiner expedite the prosecution of this patent application to issuance. If the Patent Office determines that an extension of time and/or other relief is required, Applicants petition for any required relief including extension of time, and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-4050**, referencing 10078-703.201. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,  
  
By: \_\_\_\_\_  
Richard D. Shoop  
Registration No. 45,763

SHAY GLENN LLP  
2755 CAMPUS DRIVE, SUITE 210  
SAN MATEO, CA 94403  
TELEPHONE: 650.287.2164  
FACSIMILE: 650.212.7562